



सीमा शुल्ककार्यालय का आयुक्त के (निवारक), सीमा शुल्क भवन,  
जामनगर- राजकोट हाइवे, विक्टोरिया ब्रिज के पास,  
जामनगर, गुजरात – (361 001)

Office of the Commissioner of Customs (Preventive),  
'Seema Shulk Bhavan', Jamnagar – Rajkot Highway,  
Near Victoria Bridge, Jamnagar (Gujarat) – 361 001  
**Email:** commr-custjmr@nic.in; adj-custjmr@nic.in

DIN – 20260371MM0000919786

1. फ़ाइल क्रमांक/ File Number F. No. CUS/1467/2026-Adjn
2. मूल आदेश क्रमांक/  
Order-in-Original No. 26/Additional Commissioner/ 2025-26
3. द्वारा पारित/ passed by एन .सृजन कुमार / N. Srujan Kumar  
अपर आयुक्त/ Additional Commissioner,  
सीमा शुल्क, निवारक/Customs (Preventive)  
जामनगर/ Jamnagar.
4. Date of Order /आदेश दिनांक 13.03.2026  
Date of issue / आदेश जारी किया 13.03.2026
5. कारण बताओ नोटिस क्रमांक  
एवं दिनांक ADC-23/2025-26 dated 19.02.2026  
Show Cause Notice Number  
& Date
6. नोटिसी का नाम/  
Name of Noticee **M/s Meena Refractories Private Limited,**  
8A-National Highway,  
Survey No. 137P, Village: Lalpar,  
Wankaner-363621.

01. इस आदेश की मूल प्रति संबंधित व्यक्ति को निशुल्क प्रदान की जाती है।

The original copy of this order is provided free of cost to the person concerned.

02. इस मूल आदेश से व्यथित कोई भी व्यक्ति सीमा शुल्क अधिनियम, धारा की 1962 128A)(1)a सीमा शुल्क नियम (अपील), 1982 के नियम 3 के साथ पठित, के प्रावधानों के तहत, इस आदेश की प्राप्ति की तारीख से 60 दिन के भीतर फॉर्म सीए-1 में निम्नलिखित पते पर अपील दायर कर सकता है। फॉर्म सीए-1 में अपील का प्रपत्र, दो प्रतियों में दायर किया जाएगा और उसके साथ इस आदेश की समान संख्या में प्रतियाँ संलग्न की जाएंगी जिसके विरुद्ध अपील की गई है। कम से कम से जिनमें एक प्रमाणित प्रति हो

आयुक्त (अपील)  
चौथी मंजिल, हडको भवन,  
ईश्वर भुवन रोड, नवरंगपुरा  
अहमदाबाद – 380 009

Commissioner (Appeals),  
4th Floor, HUDCO Building,  
Ishwar Bhuvan Road,  
Navrangpura,  
Ahmedabad – 380 009

Any Person aggrieved by this Order-In-Original may file an appeal in Form CA-1, within sixty days from the date of receipt of this order, under the provisions of



	Section 128 of the Customs Act, 1962, read with Rule 3 of the Customs (Appeals) Rules, 1982 before the Commissioner (Appeals) at the above mentioned address. The form of appeal in Form No. CA.-1 shall be filed in duplicate and shall be accompanied by an equal number of copies of the order appealed against (one of which at least shall be a certified copy).
03.	अपील पर 5/- रुपये का कोर्ट फीस स्टाम्प लगा होना चाहिए। जैसा कि भारतीय स्टाम्प अधिनियम, 1989 के तहत प्रदान किया गया है, या राज्य विधान द्वारा संशोधित किया जा सकता है, जबकि इस अपील के साथ संलग्न आदेश की प्रति पर रुपये ) 0.50पचास पैसे केवल (का कोर्ट फीस स्टाम्प होना चाहिए। जैसा कि न्यायालय शुल्क अधिनियम, 1870 की अनुसूची -I, मद 6 के तहत निर्धारित किया गया है।
	The appeal should bear the Court Fee Stamp of Rs. 5/- as provided under the Indian Stamp Act, 1989, modified as may be, by the State Legislation, whereas the copy of the order attached with this appeal should bear a Court Fee Stamp of Rs. 0.50 (Fifty paise only) as prescribed under Schedule – I, Item 6 of the Court Fees Act, 1870.
04.	अपीलीय ज्ञापन के साथ शुल्क भुगतान /जुर्माना /अर्थ दंड का सबूत भी संलग्न करे अन्यथा सीमा शुल्क अधिनियम, ,1962 की धारा 128 के प्रावधानों का अनुपालन ना होने के कारण अपील को खारिज किया जा सकता है।
	Proof of payment of duty / fine / penalty should also be attached with the appeal memo, failing to which appeal is liable for rejection for non-compliance of the provisions of Section 128 of the Customs Act, 1962.
05.	अपील प्रस्तुत करते समय यह सुनिश्चित करे की सीमा शुल्क अपील)) नियम, और 1982 नियम (प्रोसीजर) प्रक्रिया सिस्टेट, है। हुआ पालन पूरा का नियमो सभी के 1982
	While submitting the Appeal, the Customs (Appeals) Rules, 1982, and the CESTAT (Procedure) Rules, 1982, should be adhered to in all respects.
06.	इस आदेश के खिलाफ आयुक्त (अपील), सीमा शुल्क, उत्पाद शुल्क और सेवा कर अपीलीय न्यायाधिकरण के समक्ष मांग की गई शुल्क के 7.5% के भुगतान पर होगी, जहां शुल्क या शुल्क और जुर्माना विवाद में है, या जुर्माना विवाद में है, या जुर्माना जहां जुर्माना है अकेले विवाद में है।
	An appeal, against this order shall lie before the Commissioner (Appeals), on payment of 7.5% of the duty demanded, where duty or duty and penalty are in dispute, or penalty are in dispute, or penalty, where penalty alone is in dispute.

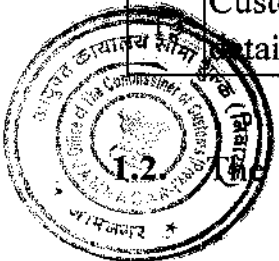


**BRIEF FACTS OF THE CASE**

M/s Meena Refractories Private Limited (IEC- AASCM6180E) (hereinafter referred to as "the Importer/Noticee"), having registered address as 8A-National Highway, Survey No. 137P, Village: Lalpar, Wankaner-363621 had filed a Bill of Entry No. 6187405 dated 09.12.2025 for clearance of goods for home consumption through their authorized Customs Broker (in short 'CB') - M/s Sharma Enterprises (AADFS1983PCH002) on self- assessment basis under section 17 of Customs Act, 1962. Details of the consignment is given below: -

**TABLE-A**

Sl. No.	Details	
1	Bill of Entry No. and date	6187704 dated 09.12.2025
2	Importer details	M/s. Meena Refractories Pvt. Ltd. (IEC-AASCM6180E)
3	Invoice No. and date	3811 dated 27.11.2025
4	Invoice Amount	USD 21632
5	Supplier/ Exporter	POWER ZONE CONTRACTING CO. (L.L.C) P.O. Box 251, Al Madinah AL Munawarach Street, Al Jubail 35514-7660, Kingdom of Saudi Arabia.
6	Country of Origin	Saudia Arabia-SA
7	Exchange Rate	1 USD=91.3 INR
8	Total Assessable Value	₹ 19,75,002/-
9	Total Self Assessed Duty	₹ 5,47,767/-
10	Bill of Lading No.	VASDMMNMB001635 dated 06.12.2025
11	Containers Nos.	08x20' bearing Nos. 1. BRTU2002763; 2. FCIU4062910; 3. SAJU2031697; 4. VMLU3202500; 5. VMLU3505403, 6. VMLU3603185, 7. VMLU3708777 and 8. WHLU2269849.
12	Gross Wt.	208000.00 Kgs.
	Customs Broker details	M/s Sharma Enterprises-AADFS1983PCH002.



The total declared assessable value of goods is ₹19,75,002/- (Rupees

Nineteen Lakh Seventy-Five Thousand and Two Only) and the total self-assessed duty amount is ₹5,47,767/- (Rupees Five Lakh Forty-Seven Thousand Seven Hundred Sixty-Seven only). The details of the imported goods as per the self-declaration made by the importer are as below:

**TABLE-B**

Exchange Rate: [1 USD = 91.30 INR]

Sl. No.	Item description	Customs Tariff Item (CTH)	Unit Assessable Value	Quantity	Total Assessable Value	Duty (INR)
1	ALUMINA CARBON BRICKS	69022030	USD 104 (₹ 9495.20)	208000 KGS	USD 21,632 (₹19,75,002/-)	₹5,47,767/-

1.3. This Bill of Entry was assigned to Faceless Assessment. The FAG officer raised the following query on 15.12.2025:

*"Upon perusal of the submitted pictures of the goods, it can be concluded that the goods are old and used refractory bricks i.e. Other than capital goods which requires authorization from DGFT as per para 2.31(ii) of FTP, 2023. The party has failed to produce the same and accordingly the instant B/E may be pushed to PAG for adjudication as the same falls under the category of restricted goods without an valid authorization."*

Accordingly, the said BoE was returned from Virtual Assessment to Local Assessment as per Department Comments on 17.12.2025.

1.4. During Local Assessment the officers of ICD Morbi on 19.12.2025 raised the following query:

*"Upon perusal of the uploaded pictures of the import goods – Alumina Carbon Bricks, FAG has concluded that the goods are old and used Refractory Bricks i.e. other than Capital Goods which requires authorization from DGFT as per para 2.31(ii) of FTP, 2023. Subject goods fall under the category of restricted goods without any valid authorization, therefore, appears to be liable to confiscation. Hence, please submit valid DGFT authorization in this regard, if any, along with your specific reply in detail."*

1.5. The importer/Customs Broker did not respond to the said query raised by the Local Officer. Therefore, it appeared that the cargo needed to be examined on the basis of images of the cargo & weighment slips uploaded on e-sanchit. Accordingly, an examination of the cargo was carried out under Panchnama dated 31.12.2025 at ICD, Morbi, Village Manaba and Vadharva, Tal. Maliya, District Morbi in the presence of Shri Satyam Singh, (Representative of M/s. Sharma Enterprises, CHA)



and Shri Sherasiya Nasir Abdul, (Representative of M/s. Meena Refractories Private Limited, Wankaner, Gujarat).

1.6. In the course of examination, the Customs officers explained that the old and used goods - Refractory Bricks i.e. 'other than Capital Goods' require authorization from DGFT as per para 2.31(ii) of FTP, 2023. As the importer could not produce valid DGFT authorization, subject goods appear to fall under the category of restricted goods without valid authorization. The officers further explained that the goods appear to have been imported in contravention of the provisions of Section 46 of the Customs Act, 1962, and therefore, there is a reason to believe that the said goods are liable for confiscation under Section 111(d) and 111(m) of the Customs Act, 1962. Hence, the entire goods described as per Table-A and valued at Rs.19,75,002/- as declared by the importer were placed under seizure as per the provisions of Section 110 of the Customs Act, 1962 vide Seizure Memorandum dated 31.12.2025 and handed over to the authorized person of Custodian M/s. Navkar Corporation Ltd. under Supratnama dated 31.12.2025 for safe custody.

1.7. The Noticee vide their letter dated 31.12.2025, addressed to the Assistant Commissioner, ICD Morbi, submitted that they have applied to DGFT for 'Restricted Import Authorisation', the status of which is 'in process'; that in order to avoid congestion, detention and demurrage charges, they requested for granting permission to warehouse the import goods under Section 49 of the Customs Act, 1962 till completion of proceedings.

1.8. They further stated that they "*voluntarily request waiver of issuance of Show Cause Notice (SCN) and waiver of Personal Hearing (PH)*" and that they "*request that the matter may kindly be decided on merits based on available records*".

1.9. As the subject goods *prima facie* appeared to be old and used from visual inspection during the course of examination, therefore, Chartered Engineer Report from a government approved Chartered Engineer was sought for to ascertain the exact description, nature and valuation of goods. Shri Pankaj N. Udani, Government approved Chartered Engineer, vide his report No. PNU/SLI/25-26/207 dated 08.01.2026 opined that after detail examination and analysis of consignment goods, the imported Alumina Carbon Bricks are old and used. He further opined that the total assessed value of the old and used consignment (Alumina Carbon Bricks) is 21632.00 USD which is fair and reasonable.

1.10. The subject Bill of Entry No. 6187405 dated 09.12.2025 was not appraised/assessed pending adjudication, accordingly goods registration was not done. The same got cancelled by system on 08.01.2026. Under this circumstance, to complete the assessment and adjudication process, the Noticee filed a fresh/new Bill of Entry No. 6943986 dated 17.01.2026 for the above said consignment of 208 MTs



of Alumina Carbon Bricks (CTH 69022030) with same import documents i.e. Bill of Lading No. VASDMMNMB001635 dated 06.12.2025, Invoice No. 00003811 dated 27.11.2025. Details of the fresh Bill of Entry is given below: -

**TABLE-C**

Sl. No.	Details	
1	Bill of Entry No. and date	6943986 dated 17.01.2026
2	Importer details	M/s. Meena Refractories Pvt. Ltd. (IEC-AASCM6180E)
3	Invoice No. and date	3811 dated 27.11.2025
4	Invoice Amount	USD 21632
5	Supplier/ Exporter	POWER ZONE CONTRACTING CO. (L.L.C) P.O. Box 251, Al Madinah AL Munawarach Street, Al Jubail 35514-7660, Kingdom of Saudi Arabia.
6	Country of Origin	Saudia Arabia-SA
7	Exchange Rate	1 USD=91.2 INR
8	Total Assessable Value	₹ 19,72,838.40
9	Total Self Assessed Duty	₹ 5,47,166.80
10	Bill of Lading No.	VASDMMNMB001635 dated 06.12.2025
11	Containers Nos.	08x20' bearing Nos. 1. BRTU2002763; 2. FCIU4062910; 3. SAJU2031697; 4. VMLU3202500; 5. VMLU3505403, 6. VMLU3603185, 7. VMLU3708777 and 8. WHLU2269849.
12	Gross Wt.	208000.00 Kgs.
13	Customs Broker details	M/s Sharma Enterprises-AADFS1983PCH002.

1.11. The new BoE No. 6943986 dated 17.01.2026 was also pushed to PAG for local assessment on Importer request. The new Bill of Entry No. 6943986 dated 17.01.2026 was provisionally assessed by PAG since the goods falls under the category of restricted goods without valid authorization.



## 2. RELEVANT LEGAL PROVISIONS:

**2.1. Foreign Trade Policy, 2023, issued under Foreign Trade (Development and Regulation) Act, 1992:** As per para 2.02(d) of the FTP, the Import Policy regime for Second Hand Goods is governed as per para 2.31. Further, as per clause (II) of para 2.31 as aforesaid, import of 'Second Hand Goods other than capital goods' is restricted and importable only against authorization, as follows:

### Import Policy for Second Hand Goods:

#### 2.31 Second Hand Goods

Sl. No.	Categories of Second-Hand Goods	Import Policy	Conditions, if any
II	Second Hand Goods other than capital goods	Restricted	Importable against Authorisation

**2.2. Section 2(33) of the Customs Act, 1962** defines "prohibited goods" as

*"means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with"*

In the instant case, since the import goods were subject to a condition under FTP, 2023 which has not been complied, inasmuch the Noticee has not submitted any valid authorization issued by DGFT, the goods appear to fall within the meaning of 'restricted goods'.

**2.3. Section 17 of the Customs Act, 1962** provides for assessment of duty as follows:

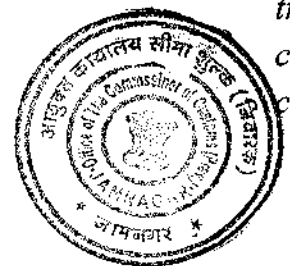
*"Assessment of duty-*

*(1) An importer entering any imported goods under section 46, or an exporter entering any export goods under section 50, shall, save as otherwise provided in section 85, self-assess the duty, if any, leviable on such goods.*

*(4) Where it is found on verification, examination or testing of the goods or otherwise that the self- assessment is not done correctly, the proper officer may, without prejudice to any other action which may be taken under this Act, re-assess the duty leviable on such goods."*

**2.4. Section 46 of the Customs Act, 1962:** Entry of goods on importation.

*"(1) The importer of any goods, other than goods intended for transit or transshipment, shall make entry thereof by presenting electronically on the customs automated system to the proper officer a bill of entry for home consumption or warehousing in such form and manner as may be*



prescribed: (4) The importer while presenting a bill of entry shall make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, and such other documents relating to the imported goods as may be prescribed.

(4A) The importer who presents a bill of entry shall ensure the following, namely:-

- a) the accuracy and completeness of the information given therein,
- b) the authenticity and validity of any document supporting it;
- c) compliance with the restriction or prohibition, if any, relating to the goods, under this Act or under any other law for the time being in force."

**2.5. Section 111 of the Customs Act, 1962** inter alia provides that the following goods brought from a place outside India shall be liable to confiscation:

"Section 111(d):

any goods which are imported or attempted to be imported or are brought within the Indian customs waters for the purpose of being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;"

"Section 111(m) :

any goods which do not correspond in respect of value or in any other particular with the entry made under this Act or in the case of baggage with the declaration made under section 77 in respect thereof, or in the case of goods under transshipment, with the declaration for transshipment referred to in the proviso to sub-section (1) of section 54;"

**2.6. Section 112(a) of the Customs Act, 1962:** Penalty for improper importation of goods:

Any person, -

- (a) who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, shall be liable,
- (i) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty not exceeding the value of the goods or five thousand rupees, whichever is the greater"

**2.7. Section 114AA of the Customs Act, 1962:**

"If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction or any



*business for the purpose of this Act, shall be liable to a penalty not exceeding five times the value of the goods."*

3. In the instant case, it appeared that the goods are "old & used" and the Noticee did not contest this point. Further, the Noticee failed to furnish any authorization from DGFT for import of the refractory bricks imported vide Bill of Entry No. 6187405 dated 09.12.2025, as required by the FTP, 2023. Therefore, the import of "Alumina Carbon Bricks" which falls under the category of 'Second Hand Goods, other than capital goods' appeared to be in violation of Para 2.31(II) of Foreign Trade Policy, 2023, and thus liable to be considered as import of 'restricted goods' as per the relevant provisions of the Customs Act, 1962 as elaborated above.

4. Further, the importer never used the term "used" or "old & used" in the description of the goods mentioned in Bill of Entry. Further, in the invoice also the word "used" or "old & used" was not mentioned. Hence, it appeared that, the importer's intention was to get the goods cleared by suppressing the fact that the goods are old & used. From above, it appeared that the importer was well aware from the fact that the subject goods are restricted in nature and require Authorization from DGFT and in absence of such authorization, the goods became restricted. So, to circumvent the statutorily provision of Authorization from DGFT, the importer did not disclose the nature of the goods in Bill of Entry and import documents. If the Bill of Entry were RMS facilitated, the importer could have succeeded in his intention to get the goods cleared without fulfilling the statutorily provision of DGFT Authorization. It was only when the goods were noticed during the assessment by the FAG and the images of the goods were uploaded in e-sanchit, the facts came to the notice that the goods are "old & used" and restricted in nature.

5. The Noticee, therefore, appeared to have attempted to clear the impugned goods without producing the required import authorization from DGFT, by not declaring the goods as "old and used", which appeared to be a mis-declaration and in contravention of an Noticee's statutory obligation to declare or produce documents before the officer of customs to the best of their knowledge and belief under Sections 46(4) and 46(4A) of the Customs Act, 1962 as well as the provisions of Rule 11 of the Foreign Trade (Regulations) Rules, 1993 which provides that -

*"On the importation into, or exportation out of, any customs ports of any goods, whether liable to duty or not, the owner of such goods shall in the Bill of Entry or the Shipping Bill or any other documents prescribed under the Customs Act, 1962 (52 of 1962), state the value, quality and description of such goods to the best of his knowledge and belief and in case of exportation of goods, certify that the quality and specification of the goods as stated in those documents, are in accordance with the terms of the export contract entered into with the buyer or consignee in pursuance of which the goods are*



*being exported and shall subscribe a declaration of the truth of such statement at the foot of such Bill of Entry or Shipping Bill or any other documents."*

6. Thus, it appeared that the Noticee was well aware of the fact that the goods in the present consignment are "old & used goods, and 'other than capital goods' – which are restricted in nature and requires authorization from DGFT. The Noticee submitted that they had applied to DGFT and the same is 'in process', the Noticee did not submit any details of the application and whether the authorization for the same had been issued before the event of import.

7. Accordingly, a Show Cause Notice No. ADC-23/2025-26 dated 19.02.2026 was issued to the importer asking them, as to why:

- (i) Customs duty of ₹5,47,767/- (Rupees Five Lakh Forty-Seven Thousand Seven Hundred Sixty-Seven only) should not be demanded and recovered from them under Section 28(4) of the Customs Act, 1962;
- (ii) Interest on duties of customs should not be recovered under Section 28AA of the Customs Act, 1962;
- (iii) The goods i.e "Alumina Carbon Bricks" valued at ₹19,75,002/- (Rupees Nineteen Lakh Seventy-Five Thousand and Two Only) should not be held liable to confiscation under Section 111(d) and Section 111(m) of the Customs Act, 1962 and why fine in lieu of confiscation should not be imposed under Section 125 of the Customs Act, 1962;
- (iv) Penalty should not be imposed under Section 112(i) of the Customs Act, 1962;
- (v) Penalty should not be imposed under Section 114AA of the Customs Act, 1962.

### **DEFENCE REPLY & PERSONAL HEARING:**

8. Vide email dated, the importer submitted letter dated 19.02.2026 enclosing therewith Challan No. 2059613911, 1621827266 & 1349931568 all dated 19.02.2026 put forth following submissions:

- (i) They had imported a consignment of Alumina Carbon Bricks falling under HSN 69022030 weighing 208 MTs, covered under Bill of Lading No. VASDMMNMB001635 dated 06.12.2025, Invoice No. 00003811 dated 27.11.2025 from M/s. Power Zone Contracting Co. (LLC), Al-Jubail, Kingdom of Saudi Arabia and filed Bill of Entry No. 6187405 dated 09.12.2025, which was pending for assessment at ICD Morbi. The said Bill of Entry No. 6187405 dated 09.12.2025 was pushed to PAG on 17.12.2025 for local assessment and adjudication by FAG Officer as the same falls under the category of restricted goods without valid authorization.



- (ii) The said BoE No. 6187405 dated 09.12.2025 was under process of apprising/assessment pending adjudication, accordingly goods registration was not done and same got cancelled by system on 08.01.2026. This circumstance compelled them to file a fresh/new Bill of Entry No. 6943986 dated 17.01.2026 for Customs clearance of above consignment of 208 MTs of Alumina Carbon Bricks (CTH 69022030) with same import documents i.e. Bill of Lading No. VASDMMNMB001635 dated 06.12.2025, Invoice No. 00003811 dated 27.11.2025.
- (iii) They were not aware that the Alumina Carbon Bricks supplied by their overseas seller were old and that their import is restricted. They came to know of this only at the time of examination of the goods. They have since applied to the DGFT for the necessary license, which is currently under process.
- (iv) They have cooperated with the officers at every stage and have also paid the Customs duty of Rs. 5,47,167/-, along with applicable interest of Rs. 19,449/- and penalty of Rs. 82,165/- (being 15% of Customs duty) in terms of Section 28(5) of the Customs Act, 1962, vide Challan No. 2059613911, 1621827266 & 1349931568 all dated 19.02.2026 in respect of the said Bill of Entry. Accordingly, they requested to conclude the proceedings under Section 28(6) of the Customs Act, 1962.
- (v) They further submitted that the said cargo has been lying at ICD, Morbi for a considerable period, and ICD charges are accumulating day by day, resulting in substantial overhead costs. They also waived their right of personal hearing in this case and pleaded to expedite the adjudication of the said Show Cause Notice and grant appropriate relief in the matter.

**8.1** Further, vide letter dated 02.03.2026, the importer submitted that their application to DGFT for Restricted Import Authorization would still take considerable time and the same will be issued by them having prospective effect only. Therefore, DGFT Authorization would not have retrospective effect and thereby, would not be considered valid for current consignment. They again requested for waiver of personal hearing and to decide the case on merit based on available records.

### **DISCUSSION AND FINDINGS:**

9. I have carefully gone through the facts of the case, Show Cause Notice and written defense submissions as well as available records on hand.

10. I find that the following points are to be decided in the instant case, as to whether:



- (i) Whether the imported goods namely "Alumina Carbon Bricks" are old and used goods falling under the category of "Second Hand Goods other than Capital Goods" under the provisions of the Foreign Trade Policy, 2023;
- (ii) Whether the import of such goods without valid authorization from DGFT renders the goods liable to confiscation under Section 111(d) and Section 111(m) of the Customs Act, 1962;
- (iii) Customs duty of ₹5,47,767/- (Rupees Five Lakh Forty-Seven Thousand Seven Hundred Sixty-Seven only) should be demanded and recovered from them under Section 28(4) of the Customs Act, 1962;
- (iv) Interest on duties of customs should be recovered under Section 28AA of the Customs Act, 1962;
- (v) The goods i.e "Alumina Carbon Bricks" valued at ₹19,75,002/- (Rupees Nineteen Lakh Seventy-Five Thousand and Two Only) should be held liable to confiscation under Section 111(d) and Section 111(m) of the Customs Act, 1962 and fine in lieu of confiscation should be imposed under Section 125 of the Customs Act, 1962;
- (vi) Penalty should be imposed under Section 112(i) of the Customs Act, 1962;
- (vii) Penalty should be imposed under Section 114AA of the Customs Act, 1962.

11. Before proceeding to decide the case, I observe that vide email dated 20.02.2026, the officers of ICD, Morbi intimated that they have verified the payment particulars and found that the importer has discharged their liability of duty, interest and penalty under section 28(5) of the Customs Act, 1962 in respect of original Bill of Entry No. 6187405 dated 09.12.2025 (i.e. Rs.5,47,767/-) and new/fresh Bill of Entry No.6943986 dated 17.01.2026 (i.e. Rs.5,47,167/-), as detailed below:

Challan No.	Paid on date	Amount Paid (Rs.)	Remarks
2059613911	19.02.2026	5,47,167/-	Customs Duty
1621827266	19.02.2026	19,449/-	Interest @ 18%
1349931568	19.02.2026	82,165/-	Penalty @15% u/s. 28(5)
3604731174	20.02.2026	600/-	Differential Customs duty on account of change in Exchange Rate

I also observe that the importer submitted that they were not aware that the Alumina Carbon Bricks supplied by their overseas seller were old and that their import is restricted. They came to know of this only at the time of examination of the goods and pleaded to expedite the adjudication of the said Show Cause Notice and grant appropriate relief in the matter.

12. In the case in hand, the undisputed facts are that the FAG officer, based on images uploaded on e-Sanchit, raised doubt that the goods appeared old and used. Subsequently, physical examination under Panchnama dated 31.12.2025 was



conducted and the Chartered Engineer in report dated 08.01.2026 categorically opined that the Alumina Carbon Bricks were old and used. The importer has also not disputed the Chartered Engineer's report dated 08.01.2026. Accordingly, I hold that the imported goods are correctly classifiable as second-hand goods other than capital goods.

**13.** I further find that as per Para 2.31(II) of the Foreign Trade Policy, 2023, import of Second Hand Goods other than Capital Goods is restricted and import is permitted only against authorization issued by DGFT. In the present case, the Noticee has admittedly not produced any valid DGFT authorization for import of the said goods. Vide letter dated 02.03.2026, the importer submitted that their application to DGFT for Restricted Import Authorization would still take considerable time and the same will be issued by them having prospective effect only. Therefore, DGFT Authorization would not have retrospective effect and thereby, would not be considered valid for current consignment.

**13.1** I observe that in the instant case, the import of old and used "Alumina Carbon Bricks" without authorization permit and in violation of the Foreign Trade Policy is not in dispute, therefore, absence of the necessary authorization under the Foreign Trade Policy would give it the character of illegal import. Further, the description in the Bill of Entry and invoice did not indicate that the goods were "old and used". Thus, the declaration did not fully reflect the actual nature of the goods. Therefore, I hold that the import of the impugned goods was in contravention of Para 2.31(ii) of FTP, 2023. Since the goods were imported without mandatory authorization, they become liable to confiscation under Section 111(d) and Section 111(m) of the Customs Act, 1962.

**13.1** I, further, observe that as per Para 2.8 of the Foreign Trade Policy, 2023, "*Any goods/service, the export or import of which is 'Restricted' may be exported or imported only in accordance with an Authorisation/Permission or in accordance with the Procedures prescribed in a Notification/Public Notice issued in this regard.*" In the instant case, the importer has admittedly imported "Restricted" goods without DGFT authorization for import of the said goods. As per the version of the importer, their application for import of old and used "Alumina Carbon Bricks" before the DGFT would not have retrospective effect and thereby, would not be considered valid for current consignment. Therefore, I am of the view that the importer is not authorized to import the impugned goods and the same is required to be re-exported by them.

**13.2** With regard to imposition of redemption fine and penalty, I find that the following judgments will apply squarely in the instant case:



**SELVAM INDUSTRIES LTD. Versus COMMISSIONER OF CUSTOMS,  
TUTICORIN [2021 (377) E.L.T. 458 (Tri. - Chennai)]**

6. From the judgment of the Hon'ble Jurisdictional High Court in Sankar Pandi, it is seen that when the goods are re-exported no redemption fine can be imposed. The said decision was affirmed by the Hon'ble Supreme Court as reported in 2018 (360) E.L.T. A214 (S.C.). The Tribunal in the decisions relied by the Ld. Counsel for appellant has followed the said decisions to hold that **redemption fine cannot be imposed when the goods are released only for the purpose of re-export**. Following the above decision, I am of the view that the imposition of redemption fine to the tune of Rs. 3 lakhs cannot sustain and requires to be set aside, which I hereby do.

7. As regards the penalty imposed under Section 112(a) of the Customs Act, I find that the Commissioner (Appeals) has already taken a lenient view by reducing the penalty from Rs. 4 lakhs to Rs. 2 lakhs. However, it is noted in para 22 that the appellant has suffered huge charges towards demurrage and detention besides having to incur freight charges on the re-export. Taking this into consideration and also the fact that the appellant has not profited from the import as the goods were re-exported, I am of the view that the penalty can be reduced from Rs. 2 lakhs to Rs. 1,00,000/- (Rupees one lakh only).".

**SANKAR PANDI Versus UNION OF INDIA [2002 (141) E.L.T. 635 (Mad.)]**

"3. It appears that the question relating to re-export is covered by the decision of the Supreme Court rendered in the case of Siemens Limited v. Collector of Customs reported in S.C. 1999 (113) E.L.T. 776. Keeping in view the abovesaid decision there cannot be any doubt that the petitioner is entitled to re-export the articles in question and for the abovesaid purpose, **it is not necessary for him to pay redemption fine as imposed by the authorities.**

6. In the facts and circumstances of the case, I feel the imposition of penalty of Rs. 33,000/-, keeping in view the relevant value of the articles concerned, appears to be grossly high and interest of justice would be met by reducing the penalty to Rs. 15,000/- and such amount should be paid by the petitioner within a period of two weeks from the date of receipt of this order. Only after the amount is paid, the petitioner would be permitted to re-export the items concerned." "

From the above decisions, I find that once the goods are held to be re-exported, the importer is liable for penal action, however, they would not be liable to pay redemption fine.



14. With regard to penalty under Section 112(a) of the Customs Act, 1962, I find that the language of Section 112(a) of Customs Act, 1962 is very much clear that penalty is imposable on any person who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under Section 111, or abets the doing or omission of such an act. Thus, once the goods are liable to confiscation, imposition of penalty under Section 112(a) becomes justified merely for doing an act or omitting to do act which renders the goods liable for confiscation. It is settled position of law that for imposing penalty under Section 112 (a) of the Customs Act, 1962, it is sufficient to prove that a default in complying with the statute has occurred rendering the impugned goods liable to confiscation under Section 111 of the Customs Act, 1962. In the instant case, by importing old and used "Alumina Carbon Bricks" without authorization permit in violation of the Foreign Trade Policy, the importer has rendered the imported goods liable for confiscation and consequently, rendered itself liable to penalty under Section 112(a) of the Customs Act, 1962.

14.1 I further observe that the importer had declared the goods simply as "Alumina Carbon Bricks" in the invoice and Bill of Entry without disclosing that the goods were old and used and thus intentionally made false or incorrect declaration to circumvent Import Policy restriction. Therefore, it is evident that they attract penal action under Section 114AA of the Customs Act, 1962, which reads as under:

*"114AA. Penalty for use of false and incorrect material. — If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods."*

14.2 Further, as the goods are not allowed for import, the question of duty and interest will not arise.

15. In view of the aforesaid discussions and findings, I pass the following order:

**ORDER**

- (i) I drop the demand of Customs duty of ₹5,47,767/- (Rupees Five Lakh Forty-Seven Thousand Seven Hundred Sixty-Seven only) under Section 28(4) of the Customs Act, 1962;
- (ii) I drop the demand of interest under Section 28AA of the Customs Act, 1962;

I order to confiscate the goods i.e. old and used "Alumina Carbon Bricks" valued at valued at ₹19,75,002/- (Rupees Nineteen Lakh Seventy-Five



Thousand and Two Only) under Section 111 (d) & Section 111 (m) of the Customs Act, 1962 but allow the importer to re-export the same without payment of redemption fine;

- (iv) I impose and order to recover penalty of ₹50,000/- (Rupees Fifty Thousand only) under Section 112(a) of the Customs Act, 1962;
- (v) I impose and order to recover penalty of ₹2,00,000/- (Rupees Two Lakhs only) under Section 114AA of the Customs Act, 1962;

The Show Cause Notice No. ADC-23/2025-26 dated 19.02.2026 is hereby disposed of accordingly.

16. This order is issued without prejudice to any other action which may be contemplated against the Importer or any other person in terms of any of the provisions of the Customs Act, 1962 and/or any other law for the time being in force.



(N. Srujan Kumar)  
Additional Commissioner

DIN - 20260371MM0000919786

Date: 13.03.2026

**BY Speed Post A.D**

To,

**M/s Meena Refractories Private Limited,**

8A-National Highway,

Survey No. 137P, Village: Lalpar,

Wankaner-363621.

Copy to:-

- i. The Commissioner, Customs (Preventive), Jamnagar [Kind Attention: the Superintendent (Review-HQ), Customs (Preventive), Jamnagar]
- ii. The Assistant Commissioner, ICD, Morbi for information and further necessary action.
- iii. Guard File.

